

12/14/06

65

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 908-910 NUECES STREET AT WEST 10TH STREET
3 FROM MULTIFAMILY RESIDENCE MODERATE-HIGH DENSITY (MF-4)
4 DISTRICT TO DOWNTOWN MIXED USE-CONDITIONAL OVERLAY (DMU-
5 CO) COMBINING DISTRICT.

6
7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

8
9 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
10 change the base district from multifamily residence moderate-high density (MF-4) district
11 to downtown mixed use-conditional overlay (DMU-CO) combining district on the property
12 described in Zoning Case No. C14-06-0118, on file at the Neighborhood Planning and
13 Zoning Department, as follows:

14
15 A tract of land being Lot 5 and the east 31 feet of Lot 6, Block 106, Original City
16 of Austin, Travis County, the tract of land being more particularly described by
17 metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

18
19 locally known as 908-910 Nueces Street at West 10th Street, in the City of Austin, Travis
20 County, Texas, and generally identified in the map attached as Exhibit "B".

21
22 PART 2. The Property within the boundaries of the conditional overlay combining district
23 established by this ordinance is subject to the following conditions:

24
25 A site plan or building permit for the Property may not be approved, released, or
26 issued, if the completed development or uses of the Property, considered cumulatively with
27 all existing or previously authorized development and uses, generate traffic that exceeds
28 2,000 trips per day.

29
30 Except as specifically restricted under this ordinance, the Property may be developed and
31 used in accordance with the regulations established for the downtown mixed use (DMU)
32 base district and other applicable requirements of the City Code.
33
34
35
36
37

FIELD NOTES

Being Lot 5 and the east 31' of Lot 6, Block 106, of the Original City of Austin, a subdivision in Travis County, Texas, according to the map or plat of the Original City filed in the General Land Office of the State of Texas, as shown on accompanying survey plat and being more particularly described as follows: (The basis of bearings for this survey is from the plat recorded in Volume 32, Page 16, Plat Records, Travis County, Texas)

BEGINNING at a ½" iron pin found in the south line of West 10th Street (80' R.O.W.), in the north line of said Lot 6, for the northwest corner of this tract, from said point, a ½" iron pin found in the east line of Rio Grande Street bears, N 70°50'00" W, said course constitutes directional control for this survey, 175.95'

THENCE, with the south line of West 10th Street, the north line of said Lot 6 and Lot 5, and the north line of this tract, S 70°50'00" E, 100.00', to a ½" iron pin set in the west line of Nueces Street (80' R.O.W.), at the northeast corner of said Lot 5, for the northeast corner of this tract.

THENCE, with the west line of Nueces Street, the east line of said Lot 5, and the east line of this tract, S 19°07'36" W, 127.57', to a ½" iron pin set in the north line of an alley (20' R.O.W.), at the southeast corner of said Lot 5, for the southeast corner of this tract.

THENCE, with the north line of said alley, the south line of said Lot 5 and Lot 6, and the south line of this tract, N 70°47'58" W, 100.00', to a ½" iron pin found for the southwest corner of this tract, from said point, a ½" iron pin found in the east line of Rio Grande Street bears, N 70°47'58" W, 176.10'.

THENCE, through the interior of said Lot 6, with the west line of this tract, N 19°07'36" E, 127.51', to the **PLACE OF BEGINNING**.

Prepared from a survey made on the ground December 7, 2005, by:

Arpenteurs Professional Surveying

8906 Wall Street, Suite 302

Austin, Texas 78754

(512) 832-1232

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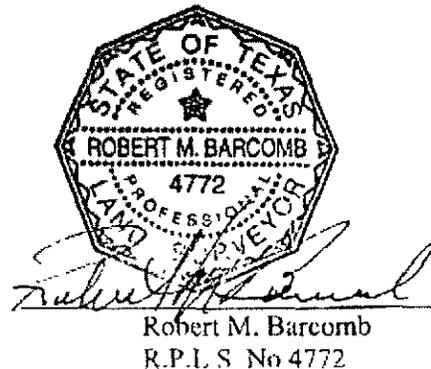


EXHIBIT B

12/4/06
#65

Zoning Case No. C14-06-0118

RESTRICTIVE COVENANT

OWNERS: Richard G. Hardin and Michael J. McGinnis

ADDRESS: P.O. Box 5628, Austin, Texas 78763

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A tract of land being 1 of 5 and the east 31 feet of Lot 6, Block 106, Original City of Austin, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, their successors and assigns.

1. For a building or structure constructed to a height of 50 feet or more from ground level, a minimum 15 percent of its gross square feet of floor area shall be for a residential use.
2. If development of the Property exceeds 50 feet in height then the Owners shall design and construct streetscape improvements along that portion of Nueces Street that abuts the Property, in compliance with the City of Austin Great Streets design criteria as the criteria existed on December 14, 2006. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owner shall coordinate the design of the streetscape improvements with the Urban Design Section of the Neighborhood Planning and Zoning Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy.
3. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
4. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

- 5 If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it
6. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination

EXECUTED this the _____ day of _____, 2006.

OWNERS:

Richard G. Hardin

Richard G. Hardin

OWNER:

Michael J. McGinnis

Michael J. McGinnis

APPROVED AS TO FORM.

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by Richard G. Hardin.

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by Michael J. McGinnis.

Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Paralegal

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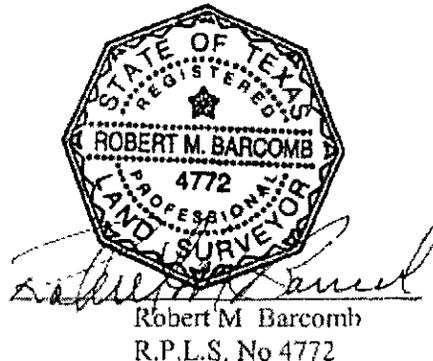


EXHIBIT A